

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>ARNOLD LORENZO PAIGE,</b>	:	<b>CIVIL ACTION NO. 1:08-CV-0978</b>
	:	
<b>Plaintiff</b>	:	<b>(Judge Conner)</b>
	:	
<b>v.</b>	:	
	:	
<b>J. HOLTZAPPLE, UNITED STATES,</b>	:	
<b>OF AMERICA,</b>	:	
	:	
<b>Defendants</b>	:	

**ORDER**

AND NOW, this 9th day of December, 2009, upon consideration of this court's memorandum and order of August 19, 2009 (Doc. 42), denying defendants' motion to dismiss (Doc. 15) plaintiff's Federal Tort Claim Act<sup>1</sup> ("FTCA") medical malpractice claim on the ground that plaintiff failed to file a Certificate of Merit ("COM") as required by Pennsylvania Rule of Civil Procedure 1042.3(a), and affording plaintiff until September 18, 2009, to file a COM or suffer dismissal of his claim, and plaintiff having sought and been granted enlargements of time, most recently until December 1, 2009 (Doc. 52), and it appearing that the deadline has passed and plaintiff has failed to file the COM , it is hereby ORDERED that:

1. Plaintiff's FTCA claim is DISMISSED for failure to file a COM. See PA. R. CIV. P. 1042.3.<sup>2</sup>

---

<sup>1</sup>28 U.S.C. § 1346

<sup>2</sup>This was the sole remaining claim.

2. In accordance with the prior order of court (Doc. 42, at 16, ¶ 2), the Clerk of Court shall ENTER Judgment in favor of defendants and against plaintiff on the Bivens claim.
3. The Clerk of Court shall CLOSE this case.

S/ Christopher C. Conner  
CHRISTOPHER C. CONNER  
United States District Judge